

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RICHARD MAURICE FELDER	§	
VS.	§	CIVIL ACTION NO. 1:11-CV-551
M. MARTIN	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner, Richard Maurice Felder, a federal prisoner currently confined at FCI Beaumont Low, proceeding *pro se*, filed this petition for writ of habeas corpus contesting the legality of his conviction.

The Court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends this action be dismissed.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Petitioner filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the Court finds the objections lacking in merit. As the Magistrate Judge correctly concluded, § 2255 provides the primary means of collaterally attacking a federal conviction and sentence and the All Writs Act and common law are not available to petitioner. *See Reyes-Requena v United States*, 243 F.3d 893, 901 (5th Cir. 2001); *see also Carlisle v. United States*, 517 U.S. 416, 429 (1996) (“[T]he All Writs Act is a residual source of authority to issue writs that are not covered by statute. Where a statute specifically addresses the particular issue at hand, it is that authority, and not the All Writs Act, that is controlling.”). Accordingly, petitioner has not shown that the remedy available under

§ 2255 is inadequate or ineffective. *See Reyes-Requena*, 243 F.3d at 904. Furthermore, to the extent petitioner relies on *Bond v. United States*, – U.S. –, 131 S.Ct. 2355, 180 L.Ed.2d 269 (2011) in support of his claims, *Bond* does not establish that petitioner was convicted based upon conduct that did not constitute a crime. In *Bond*, the Supreme Court held only that a person convicted of a federal offense had standing to assert that in enacting the applicable criminal statute, Congress exceeded its power under the Tenth Amendment. *Id.*

ORDER

Accordingly, the objections of petitioner are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **30** day of **December, 2011**.



Ron Clark, United States District Judge